

OCT 15 2002

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## PETITIONS OFFICE

PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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# TRANSMITTAL FORM

*(to be used for all correspondence after initial filing)*

<b>TRANSMITTAL FORM</b>		Application Number	10/039,311
		Filing Date	Oct 26, 2001
		First Named Inventor	Clark, Reginald Wayne
		Group Art Unit	
		Examiner Name	
Total Number of Pages in This Submission		Attorney Docket Number	70625

## ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  Request for Reconsideration of Decision on Petition and Refund of Petition Fee
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	FITCH, EVEN, TABIN & FLANNERY	
Signature		
Date	October 15, 2002	

## CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office 703-308-6916 on this date:

October 15, 2002

Type or printed name	Thomas F. Lebens		
Signature		Date	October 15, 2002

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

#7

FETF 70625

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Clark et al.

Appln. No.: 10/039,311

Filed: 10/26/2001

For: STERILIZATION OF  
PACKAGES AND THEIR  
CONTENTS USING LIGHT

FAX RECEIVED

OCT 15 2002

Group Art

Unit: TBD

PETITION'S OFFICE

Examiner: Not Yet Assigned

REQUEST FOR RECONSIDERATION OF PETITION  
UNDER 37 CFR 1.47(a)

Attn: Mr. Steven Brantley  
Office of Petitions  
Washington, D.C. 20231

Sir:

In response to Paper No. 6, "DECISION GRANTING PETITION," from the Office of Petitions mailed on August 15, 2002, in the above matter, Applicants note at the outset with appreciation that the Petition under 37 C.F.R. § 1.53(c) has been granted. This is the only petition filed in above identified matter, i.e., U.S. Patent Application No. 10/039,311 (the present case). Having received a favorable outcome, no petition fee should have been charged.

The Office has apparently, however, misconstrued part of Applicants' original filing papers, as constituting

Reconsideration of Petition  
Appn. No. 10/039,311  
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a petition in the present matter, even though such was clearly identified as relating to U.S. Patent Application No. 09/326,168 (the parent case). At no point did the office object to the Declaration in the present mater. No Notice to File Missing Parts was issued, and thus no reason existed for Applicants to have filed a petition under 37 C.F.R. § 1.47(a) in the present matter. The petition under 37 C.F.R. § 1.47(a) was filed in the parent case, a petition fee paid, and the case passed to substantive examination. The present case, being a continuation, should not require an additional Declaration, or Petition, and no such indication was ever made by the office.

Nonetheless, the misconstruction of the Petition in the parent case as being a Petition in the present case, has somehow given rise not only to a denial of the petition, but an indication that the present case would become abandoned if a response to the denial was not filed - this even though the a petition in the present case was unnecessary, and no objection to the Declaration was ever made!

Applicants provide clarification regarding any petition filed with the United States Patent and Trademark Office under 37 C.F.R. § 1.47(a) and, accordingly, request withdrawal of said petition and reconsideration of any negative decision thereof. Additionally, Applicant requests a refund of the petition fee, in the amount of \$130.00, paid under 37 C.F.R. § 1.47(a) in the present application.

On October 26, 2001, the present non-provisional patent application was properly submitted to the United

Reconsideration of Petition  
Appln. No. 10/039,311  
Page 3 of 5

States Patent and Trademark Office with the appropriate application papers including an Invention and Secrecy Agreement (6 pages) and a petition for "Filing on Behalf of Nonsigning Inventor" (9 pages). The proper submission of these items was confirmed with a return postcard received by Applicant on January 30, 2002, submitted herewith.

The petition for "Filing on Behalf of a Nonsigning Inventor" was originally filed with the United Patent and Trademark Office on November 8, 1999 for application serial number 09/326,168, which is the parent of the present application. Accordingly, Applicants properly paid the petition fee of \$130.00 under 37 CFR 1.17(I) for said petition filed at that time.

A photocopy of said petition for "Filing on Behalf of a Nonsigning Inventor" was submitted with the present application merely as evidence that the petition was submitted and granted in the parent application. The photocopy of the petition in the present case was sent so that Joseph E. Dunn would be properly identified as an inventor in the present application. Since this issue was previously broached in the parent case, filing of any such petition in the present case was unnecessary.

In response to the petition filed under 37 C.F.R. § 1.47(a) in the parent case (serial number 09/326,168), a Corrected Filing Receipt and a Notice of Recordation of Assignment Document, copies of which are submitted herewith, were forwarded to our office properly naming Joseph E. Dunn as an inventor.

Reconsideration of Petition  
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#### CONCLUSION

In view of the foregoing, Applicant respectfully requests withdrawal of the petition under 37 C.F.R. § 1.47(a) in the present application and any negative decision thereof, as well as a refund of petition fees paid for consideration of said petition in the present application. Additionally, Applicant respectfully requests that the Petitions Attorney forward the present application to the Examining Corp as the petition under 37 C.F.R. § 1.53(e) was decided favorably with respect to the present application, thus the present application should be ready for examination (the issue decided under 37 C.F.R. § 1.53(e) being the only basis made by the office for any objection to the present application as filed).

Should there remain any outstanding issues it is respectfully requested that the office telephone the undersigned at (858) 587-7644 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,

Thomas F. Lebens  
Reg. No. 38,221  
Dated: October 15, 2002

Reconsideration of Petition  
Appn. No. 10/039,311  
Page 5 of 5

Enclosures:      Copy of Return Postcard  
                    Copy of Corrected Filing Receipt for serial  
                    number 09/326,168  
                    Copy of Notice of Recordation of Assignment  
                    Document for serial number 09/326,168

Address all correspondence to:

Thomas F. Lebенs  
FITCH, EVEN, TABIN & FLANNERY  
120 South LaSalle Street, Ste. 1600  
Chicago, IL 60603  
(858) 587-7644

Oct 15 02 08:42P

Tom F. Lebens

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Clark et al. STERILIZATION OF PACKAGES AND THEIR CONTENTS USING LIGHT Express Mail No. EL 870 857 741 US	Docket 70625 (5102) TFL/dkr October 26, 2001
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Utility Patent Application Transmittal (PTO/SB/05),  
Fee Transmittal for FY 2001 (PTO/SB/17),  
Application Data Sheet (37CFR 1.76),  
Specification and 37 claims (62 pages),  
Informal drawings (5 sheets),  
Declaration for Utility or Design Patent Application (5 pages),  
Invention and Secrecy Agreement (6 pages),  
Petition for Filing on Behalf of Nonsigning Inventor (9 pages),  
Return postcards.

FAX TRANSMITTED

OCT 15 2002

PETITIONS ON FILE

jc971 U.S. PTO  
10/039311  
10/26/01

MAR 21 2000



UNITED STATES DEPARTMENT OF COMMERCE  
 Patent and Trademark Office  
 ASSISTANT SECRETARY AND COMMISSIONER  
 OF PATENTS AND TRADEMARKS  
 Washington, D.C. 20231

FEBRUARY 15, 2000

PTAS

FITCH, EVEN, TABIN & FLANNERY  
 THOMAS F. LEBENS  
 SUITE 1600-120 S. LA SALLE STREET  
 CHICAGO, IL 60603



\*101203198A\*

MAM

RECORDED

OCT 15 2002

PATENT OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE  
 NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 11/12/1999

REEL/FRAME: 010379/0387  
NUMBER OF PAGES: 7

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
DUNN, JOSEPH

DOC DATE: 08/20/1984

ASSIGNEE:  
MAXWELL LABORATORIES, INC.  
8888 BALBOA AVENUE  
SAN DIEGO, CALIFORNIA 92123SERIAL NUMBER: 09326168  
PATENT NUMBER:FILING DATE: 06/04/1999  
ISSUE DATE:MAYA BENNETT, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

MAR 28 2000

http://apps/patent/correspondence/1\_A.htm

## CORRECTED FILING RECEIPT

UNITED STATES DEPARTMENT OF  
COMMERCE

Patent and Trademark Office

Address: ASSISTANT SECRETARY AND  
COMMISSIONER OF PATENT AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP/ART UNIT	PIL FEE REC'D	ATTY/DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
08/328,168	06/04/1999	2881	890	62891	5	20	2

FITCH EVEN TABIN & FLANNERY  
120 SOUTH LASALLE STREET SUITE 1600  
CHICAGO, IL 60603

OCT 15 2002

RECEIVED BY MAIL

Date Mailed: 03/16/2000

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the PTO processes the reply to the Notice, the PTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

REGINALD WAYNE CLARK, DEL MAR, CA ;  
JAMES C. LIERMAN, SAN DIEGO, CA ;  
DONALD LANDER, LA JOLLA, CA ;  
JOSEPH E. DUNN, VISTA, CA ;

## Continuing Data as Claimed by Applicant

THIS APPLICATION IS A CIP OF 08/846,102 05/01/1997 PAT 5,925,885  
WHICH IS A CIP OF 08/851,275 05/22/1996 PAT 5,786,598

00-12 SEP  
11-00

## Foreign Applications

If Required, Foreign Filing License Granted 07/06/1999

## Title

PARAMETRIC CONTROL IN PULSED LIGHT STERILIZATION

## Preliminary Class

250

Data entry by : DUCKETT, GOIGA

Team : OIPE

Date: 03/16/2000



**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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**PLEASE NOTE the following information about the Filing Receipt:**

- The articles such as "a," "an" and "the" are not included as the first words in the title of an application. They are considered to be unnecessary to the understanding of the title.
- The words "new," "improved," "improvements in" or "relating to" are not included as first words in the title of an application because a patent application, by nature, is a new idea or improvement.
- The title may be truncated if it consists of more than 600 characters (letters and spaces combined).
- The docket number allows a maximum of 25 characters.
- If your application was submitted under 37 CFR 1.10, your filing date should be the "date in" found on the Express Mail label. If there is a discrepancy, you should submit a request for a corrected Filing Receipt along with a copy of the Express Mail label showing the "date in."

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Office of Initial Patent Examination  
Customer Service Center  
Washington, DC 20231